

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 16,277
)
Appeal of)
)

INTRODUCTION

The petitioner appeals the decision of the Department of Social Welfare, Office of Home Heating Fuel Assistance, denying his application for Fuel assistance because he is over income for the program. The facts are not in dispute.

FINDINGS OF FACT

1. The petitioner lives alone and receives Social Security disability payments of \$1,029.50 a month. Deducted from his monthly check is a Medicare premium of \$45.50 a month, so the petitioner actually receives a check for \$984 each month.

2. The petitioner applied for Fuel Assistance on September 27, 1999. On December 1, 1999 the Department notified him that his application had been denied because his income exceeded the program maximum.

ORDER

The decision of the Department is affirmed.

REASONS

Under the Fuel Assistance regulations, all "social security benefits including the Part B Medicare premium" are included in the definition of "unearned income". W.A.M. § 2904.2(2). The regulations specify that the only deduction from gross income allowable for individuals in the petitioner's circumstances is \$150 for each elderly or disabled member of a household. This deduction brought the petitioner's net countable income to \$879.50.

The maximum net income for a one person household is \$859 a month. W.A.M. § 2904.1 and Procedures Manual § 2905 A. The petitioner maintains that he should be allowed to deduct his Medicare premium from his gross income, which would place him under the maximum. The Department maintains, however, that the \$150 deduction for elderly and disabled individuals was designed to take into account things like the Medicare premium; and it must be concluded that the Department is correct in maintaining that the regulations are clear that a Medicare premium cannot be deducted from Social Security income in addition to the \$150 elderly/disabled deduction. Unfortunately, this application of the regulations places the petitioner \$20 over the monthly income maximum.

However, inasmuch as the Department's decision in this matter is in accord with the regulations, the Board is bound

by law to affirm. 3 V.S.A. § 3091(d) and Fair Hearing Rule No. 17.

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